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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,179	09/15/2003	Jerald C. Seelig	619.489 ACC.CIP-Bingo Nig	1427
21707	7590	02/16/2005	EXAMINER	
IAN F. BURNS & ASSOCIATES 1575 DELUCCHI LANE, SUITE 222 RENO, NV 89502			LAYNO, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,179

Applicant(s)

SEELIG ET AL.

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,5-20,25-32,36-43,45,47,51 and 53-55 is/are rejected.
- 7) ☒ Claim(s) 2-4,21-24,33-35,44,46,48-50 and 52 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Double Patenting

1. Claims 1, 5-19, 32, 36-43, 45, 47 and 51 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22-36 of U.S. Patent No. 6,817,945. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the patent recite: "an action unit container that is rotatable" (claim 25), "agitatable action units in the container" (claim 22), "an action unit selector mounted to the gaming machine housing" (claim 22), and "an action unit display mounted to the gaming machine housing, whereby action units selected by the action unit selector may be displayed" (claim 22). These features are equivalent to "rotatable container", "the at least one movable object", "a controller", and "a game display" recited in claims 1, 32 and 43 of the present application.

2. Claims 20 and 25-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 29-39 of U.S. Patent No. 6,338,678. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent recites: "jumbling balls in a container" (claim 29), "selected prize ball is selected based at least in part on a random event" (claim 30), "selected prize ball displayed to the player appears to originate from the jumbled ball display" (claim 32), "randomly selecting the prize ball comprises generating a random number" (claim 39), and "storing prize balls in an individually controlled manner" (claim 33). These features are equivalent to "moving a movable

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object within a container”, “associating the random game outcome with at least one game outcome determining object”, “the game outcome determining object being substantially similar in appearance to the moveable object, wherein the similarity of the game outcome determining object to the moveable object provides an illusion to the player that the moveable object at least partially determines the game outcome”, and “displaying a display symbol on a game display having a plurality of display positions” as recited in claim 20 of the claimed invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glasson et al.

The patent to Glasson et al. discloses a gaming apparatus comprising gaming device 10 configured to allow a player to place a wager on a simulation of a bingo game. A display, Figs. 3-7, below caller 42, comprises a container having a plurality of moveable objects, wherein the container comprises a simulation of a bingo-ball container. The display also comprises a simulation of a bingo card 58-62. A well known method of mixing bingo balls is to rotate the container. Therefore, it would have been obvious to provide a simulation of rotating the container to jumble the bingo balls.

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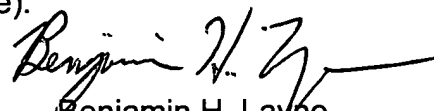
Allowable Subject Matter

5. Claims 2-4, 21-24, 33-35, 44, 46, 48-50 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl